

REMARKS

Claims 1, 3-5, 7-10, 12, 14-25 and 27-35 are rejected under §112, second paragraph, as being indefinite. By the amendment made to claim 1, the rejection is now obviated.

Claims 1, 3-5, 7-10, 12, 14-25 and 27-35 are rejected as being anticipated by Mulier (U.S. 5,906,613). In particular, the device shown in Fig. 10 of Mulier is relied upon as disclosing each limitation of the claims.

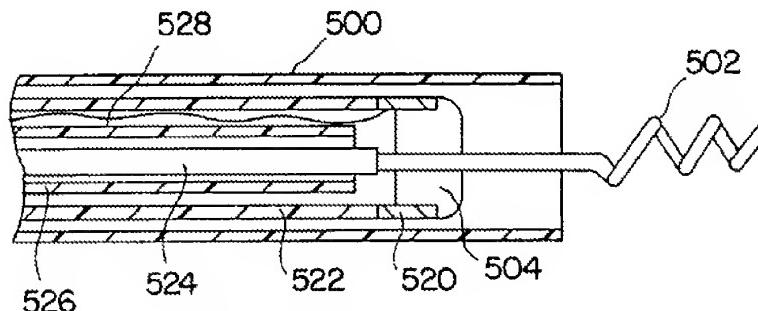


FIG. 10

First of all, Mulier does not disclose an electrical lead. Mulier is an ablation catheter. See Mulier, Background of the Invention, at col. 1, lines 11-13. Claim 1, however, is directed to an implantable medical lead and not to an ablation catheter. Mulier is not relevant prior art to the claimed subject matter.

The depiction in Fig. 10 of Mulier is a cutaway view of the ablation catheter of Fig. 7 (col. 9, lines 8-9). In this embodiment of Mulier, fluid is supplied to the interior of helical electrode 502, allowing for delivery of Ringer's solution to tissue through electrode 502 (col. 8, lines 64-66). Thus, helical electrode 502 is hollow (see col. 2, line 1).

The first contention in the office action is that helical electrode 502 is the first electrode surface and is further characterized as being a "closed cavity." However, Mulier clearly describes helical electrode 502 as being "hollow" and, therefore, it cannot be a closed cavity.

The second contention is that cap 504 forms a wall at the distal end of the elongated body (“distal end wall”). However, the elongated body of Mulier is outer tube 500. As seen in Fig. 10, cap 504 is internal to outer tube 500. Thus, Mulier does not disclose an elongated body terminating at the distal end with an end wall as specified in claim 1.

Another contention is that cap 504 provides an insulating housing around the second surface of the electrode. However, the office action misidentifies ring electrode 520 as being the second surface of the electrode. Because helical electrode 502 has already been characterized as the electrode, which claim 1 specifies as comprising both a first surface and a second surface, ring electrode 520 cannot have the recited second surface. As a further consequence, cap 504 cannot be the recited insulating housing.

These contentions and characterizations of the structure in Fig. 10 of Mulier amount to a disjointed mosaic that merely forms an alleged correspondence of Mulier’s Fig. 10 structural elements with the structural limitations recited in claim 1. Mulier does not anticipate claim 1.

First, the characterization fails to consider that the first and second electrode surfaces are resident within a single electrode structure. An illustrative embodiment of claim 1 is shown in Figure 1A:

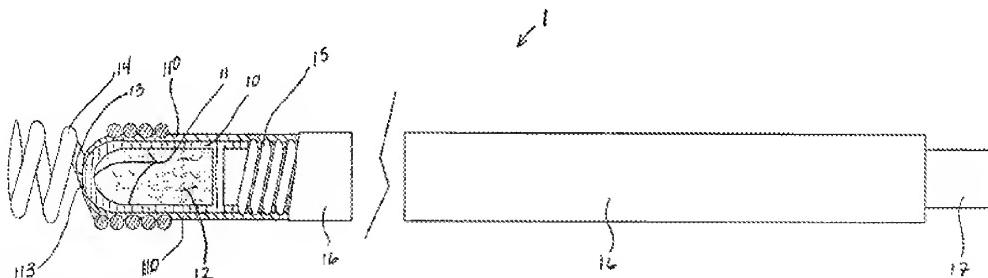


FIGURE 1A

As shown, a single electrode formed by a conductive structure 10 has both an inner surface 11 and an outer surface 13. Applying a surface on one electrode, helix 502, and a surface on another electrode, ring 520, fails to correspond to the

structure recited in claim 1. To the extent the alleged indefiniteness of claim 1 has driven the erroneous characterization, the amendments to claim 1 to remove any such indefiniteness also removes the basis for the anticipation rejection. Therefore, amended claim 1 and the claims dependent thereon are not anticipated by Mulier.

Claims 10, 14, and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mulier. Claims 17-20, 22 and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mulier or, in the alternative, over Mulier in view of Gates (US 5,408,744). Claims 3, 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mulier in view of Peterfeso (US 6,298,272). Claims 21 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mulier in view of Altman (US 6,086,582). The primary basis for the obviousness rejections is the contention that Mulier anticipates independent claim 1. However, regardless of the merit of the contentions as to the secondary references, as shown above, the contention that Mulier anticipates the independent claims is erroneous. Accordingly, the obviousness rejections are not adequately supported as a matter of law and should be withdrawn.

Applicants further note that independent claim 23, although rejected along with claim 1 as being anticipated by Mulier, is not addressed in the office action separately from claim 1. Claim 23, however, specifies the electrode limitation in a means-plus-function format. Therefore, the limitation must be construed and applied according to §112, ¶ 6, and such an analysis must be undertaken in order to adequately support the rejections. The corresponding structure described in the written description of the specification that is linked to the function of producing first and second current densities includes, at least, the structure shown in Fig. 1A and Fig. 1B, which are described in paragraphs [0012], [0013], [0014], and [0015]. Thus, according to §112, ¶ 6, claim 23 covers that disclosed structure and equivalents thereof. The office action, however, fails to conduct a §112, ¶ 6 analysis in support of the anticipation rejection. Accordingly, the anticipation rejections of claim 23 and the claims dependent

thereon are without basis and should be withdrawn. Similarly, the obviousness rejections of dependent claims 28-29, 31-34, and 35 are without basis and should be withdrawn.

Applicants further bring to the examiner's attention that specific grounds for the rejection of claim 27 are not set forth in the office action. Also, claim 3 submitted in the response filed on November 24, 2008 is nowhere addressed in the office action.

In summary, Mulier is not relevant prior art to the claimed subject matter and, in any event, fails to disclose a single electrode having the two electrode surfaces as specified in the claims. Therefore, Applicants submit that the pending claims are allowable and request issuance of a notice of allowance.

Should any issues remain outstanding, the Examiner is urged to telephone the undersigned to expedite prosecution. The Commissioner is authorized to charge any deficiencies and credit any overpayments to Deposit Account No. 13-2546.

Respectfully submitted,

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